

CALIFORNIA COASTAL COMMISSION

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Hearing Date: July 8-11, 1997
Commission Action:

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 5-95-019-A3

APPLICANT: Elliot Horowitz

PROJECT LOCATION: 3602 Grand Canal (Lot No. 4, Block 6, Silver Strand),
Venice, City of Los Angeles, Los Angeles County.

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Coastal Development Permit P-7-23-76-8463 (Lumblau) permitted the construction of five attached three-story single family dwellings, 33 feet above centerline of frontage road.

DESCRIPTION OF AMENDMENT REQUEST: 1) Revise special conditions of Coastal Development Permit P-7-23-76-8463 (Lumblau) in order to delete special conditions no. 2, 4, 7, 8 and 9 as they pertain to the applicant's Lot; 2) Within ninety days of the granting of the amendment, remove all fences, fill and vegetation from the City Grand Canal Esplanade located between the applicant's lot and Grand Canal; 3) Resurface the City Grand Canal Esplanade with concrete for public access; 4) Receive approval of existing accessory improvements in the front yard area more than ten feet and less than twenty feet inland from the Grand Canal Esplanade.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission determine that the amendment, as conditioned, is consistent with the requirements of the Coastal Act. As a condition of approval, the applicant is required to restore public access along the Grand Canal Esplanade fronting the applicant's lot within ninety days and before the special conditions of the underlying permit are revised so that special conditions nos. 2, 4, 7, 8 and 9 are not applicable to Lot No. 4. The applicant agrees with the staff recommendation.

LOCAL APPROVALS RECEIVED:

1. City of Los Angeles Approval in Concept No. 97-008, 2/18/97.
2. City of Los Angeles Department of Public Works Letter of Permission, 3/18/97 (Exhibit #5).

SUBSTANTIVE FILE DOCUMENTS:

1. Coastal Development Permit P-7-23-76-8463 (Lumblau).
 2. Coastal Development Permit Amendments 5-95-019-A1 (Hickok) & 5-95-019-A2 (Sevedge).
 3. Coastal Development Permits 5-87-657, 5-87-658 & 5-87-659 (Schaffel).
 4. Coastal Development Permit 5-87-965 (Laughlin).
 5. Coastal Development Permit 5-87-966 (Kirkhoff).
 6. Coastal Development Permits 5-87-967, 5-87-968 & 5-87-969 (Strand Associates).
 7. Coastal Development Permit 5-91-584 (Venice Canals).
 8. Coastal Development Permit 5-93-150 (Nichols).
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PROCEDURAL NOTE: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

In this case, the Executive Director has determined that the proposed amendment is a material change because it affects the special conditions of the underlying permit. If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. [14 California Code of Regulations Section 2156].

STAFF RECOMMENDATION

Staff recommends that the Commission adopt the following resolution:

I. APPROVAL WITH CONDITIONS

The Commission hereby grants, subject to the conditions below, an amendment to the permit on the grounds that the proposed amendment, as conditioned, is in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. SPECIAL CONDITIONS

1. Revision to Special Conditions

The revision to the special conditions of Coastal Development Permit P-7-23-76-8463 (Lumblau) so that special conditions no. 2, 4, 7, 8 and 9 no longer apply to Lot No. 4 shall not be effective until the applicant has restored public access along the Grand Canal Esplanade fronting his property. Public access along the Grand Canal Esplanade shall be deemed restored when the Executive Director has signed a statement concurring that the following has occurred along the Grand Canal Esplanade situated between the applicant's lot and Grand Canal: 1) all fences, fill, vegetation and other encroachments have been removed from the Grand Canal Esplanade right-of-way, 2) the full width of the Grand Canal Esplanade right-of-way has been resurfaced with concrete consistent with the City of Los Angeles specifications and requirements for permanent right-of-way improvements, and 3) the public is able to access and walk along the improved and unobstructed Grand Canal Esplanade right-of-way.

2. Timing of Completion of Work

Public access along the Grand Canal Esplanade shall be restored, consistent with the terms and conditions of this amendment and to the satisfaction of the Executive Director, within ninety days of the Commission's action on this amendment, or within such additional time as may be granted by the Executive Director for good cause.

3. City Esplanade

The applicant acknowledges, through the acceptance of this permit amendment, that the City Grand Canal Esplanade is a public sidewalk and that the applicant shall not encroach onto or over the Grand Canal Esplanade right-of-way or otherwise interfere with the public's use of the Grand Canal Esplanade.

4. Height

The height of structures shall not exceed 36 feet above the centerline of the frontage road, Via Dolce. All future construction shall conform to a 36 feet above the centerline of Via Dolce height limit.

5. Setback from Esplanade

No portion of any residential structure shall encroach within ten feet of the City Grand Canal Esplanade right-of-way.

III. FINDINGS AND DECLARATIONS

The Commission finds and declares:

A. Amendment Description

The applicant has requested an amendment to: 1) Revise special conditions of Coastal Development Permit P-7-23-76-8463 (Lumblau) in order to delete special conditions no. 2, 4, 7, 8 and 9 as they pertain to the applicant's lot; 2) remove all fences, fill and vegetation from the City Grand Canal Esplanade located between the applicant's lot and Grand Canal; 3) resurface the City Grand Canal Esplanade with concrete for public access; and 4) receive approval of existing accessory improvements in the front yard area more than ten feet and less than twenty feet inland from the Grand Canal Esplanade.

Special conditions no. 2, 4, 7, 8 and 9 were imposed by the predecessor Regional California Coastal Zone Conservation Commission in 1976 when it approved Coastal Development Permit P-7-23-76-8463 (Lumblau) for the development of five attached single family residences across five lots (Lots 4-8) next to Grand Canal in Venice (Exhibits #1&2).

The special conditions were imposed in order to protect the public's ability to walk along Grand Canal and to protect the biological resources in and adjacent to Grand Canal. The permit prohibited fill and other development in the City Grand Canal Esplanade (the historic public walkway is referred to as the "marsh" in the 1976 permit because it is situated below the mean higher high tide elevation of 2.63'), and required the dedication and improvement of a new public sidewalk across the five lots.

The special conditions of Coastal Development Permit P-7-23-76-8463 (Lumblau) read as follows (see also Exhibit #4, p.3):

1. Submit a resurvey of the lots showing the location of the latest available mean higher high tide line.
2. Stipulate that during construction no fill will be placed in the marsh.
3. Cause to be recorded a public easement dedicated to the City of Los Angeles or the State of California, said easement shall be a strip ten feet wide along the mean higher high tide line extending from Lot 4 to Lot 8.
4. Agree, prior to occupancy of the structure, to construct an improved fenced walkway five feet in width along this easement, the fencing shall be designed to allow viewing of the marsh but to prevent foot traffic and animal intrusion onto the marsh or canal. Provided the sidewalk does not intrude into the canal, it shall be designed according to the specification of the City of Los Angeles. The walkway shall be pervious, and may be fenced provided a method of maintenance has been agreed to by the Bureau of Street Maintenance.
5. Submit revised plans indicating all portions of the structures are

set back twenty feet from the mean higher high tide line except open second story decks which may extend to fourteen feet from the mean higher high water.

6. Submit revised plans that include a drainage plan which prevents any runoff into the canal and disposes of all but the heaviest storm flows on-site in a french drain (gravel filled well).
7. Enter a deed restriction preventing all construction, except the walkways, fences or pervious decks, between the line of the twenty foot setback from the mean higher high tide line and the canal.
8. So long as the above conditions are fulfilled, the sidewalk may be straight and not follow minor fluctuations of the water line.
9. No portion of the structure may be higher than 27 feet above the sidewalk, which shall be constructed without unreasonable fill, according to the diagram submitted by the applicant.

STAFF NOTE: The applicant has requested the deletion of special condition no. 3, but Section 30609 of the Coastal Act limits the authority of the Commission or its staff to accept amendments to conditions requiring dedications of land or interests in land for the benefit of the public imposed by the predecessor Coastal Zone Conservation Commission or its Regional Commissions. Section 30609 of the Coastal Act states:

Where, prior to January 1, 1977, a permit was issued and expressly made subject to recorded terms and conditions that are not dedications of land or interests in land for the benefit of the public or a public agency pursuant to the California Coastal Zone Conservation Act of 1972 (commencing with Section 2700), the owner of real property which is the subject of such permit may apply for modification or elimination of the recordation of such terms and conditions pursuant to the provisions of this division. Such application shall be made in the same manner as a permit application. In no event, however, shall such modification or elimination of recordation result in the imposition of terms or conditions which are more restrictive than those imposed at the time of the initial grant of the permit. Unless modified or deleted pursuant to this section, any condition imposed on a permit issued pursuant to the former California Coastal Zone Conservation Act of 1972 (commencing with Section 2700) shall remain in full force and effect.

The Executive Director has determined that the staff does not have the power to accept an amendment to delete special condition no. 3 of permit P-76-8463 because that condition requires a dedication of land or interest in land for the benefit of the public. This condition was imposed on November 8, 1976 by the predecessor Regional California Coastal Zone Conservation Commission.

This amendment affects only special conditions no. 2, 4, 7, 8 and 9 of Coastal Development Permit P-7-23-76-8463 (Lumblau). Special conditions no. 1, 3, 5 and 6 are not affected. Further, this amendment is requested only by the owner of Lot No. 4. The owners of Lots No. 7 and 8 received Commission approval of similar permit amendments on May 8, 1996 [see 5-97-019-A1 (Hickok) & 5-97-019-A2 (Sevedge)]. Therefore, this amendment affects special conditions no. 2, 4, 7, 8 and 9 of Coastal Development Permit P-7-23-76-8463 (Lumblau) only as they apply to Lot No. 4. The original special conditions of Coastal Development Permit P-7-23-76-8463 (Lumblau) remain in full force and effect for Lots No. 5 and 6.

The purpose of this amendment request is to: 1) restore public access along Grand Canal on the City Grand Canal Esplanade, and 2) revise the underlying permit requirements, i.e. special conditions, to bring them into conformance with Coastal Development Permit requirements which the Commission has more recently applied to several adjacent lots in permit actions along Grand Canal in 1988.

This amendment also requests approval of existing accessory improvements in the front yard area more than ten feet and less than twenty feet inland from the Grand Canal Esplanade. The existing development in the front yard area consists of landscaping, low brick walls and brick walkways (Exhibit #3). The existing landscaping walkways are consistent with the limitations of special condition no. 7 of Coastal Development Permit P-7-23-76-8463 (Lumblau). It is unclear, however, whether the existing brick walls in the front yard area located more than ten and less than twenty feet from the Grand Canal Esplanade were constructed in conformance with the requirements of the Coastal Act. Although brick walls are shown on some plans in the permit file, the existing brick walls in the front yard area is not consistent with the limitations of special condition no. 7 of Coastal Development Permit P-7-23-76-8463 (Lumblau).

This amendment will clarify the matter by finding that the existing accessory improvements in the front yard areas more than ten feet and less than twenty feet inland from the Grand Canal Esplanade do not negatively impact coastal resources and comply with the requirements of the Coastal Act.

The primary Coastal Act issue involved with this amendment request is the ability of the public to access the City-owned Grand Canal Esplanade in order to walk along the banks of Grand Canal. Public access along Grand Canal is currently blocked at the five lots subject to Coastal Development Permit P-7-23-76-8463 (Lumblau).

The applicant for this amendment request is the owner of one of the original five lots which are subject to Coastal Development Permit P-7-23-76-8463 (Lumblau). The applicant owns Lot No. 4 (Exhibit #3). In order to differentiate between the requirements of the original permit and the requirements of this amendment as it applies separately to Lot No. 4, a separate file number has been assigned for each amendment as it applies to each lot. File No. 5-95-019-A3 (Horowitz) applies to Lot No. 4 at 3602 Grand Canal. File No. 5-95-019-A1 (Hickok) applies to Lot No. 8 at 3618 Grand Canal, and File No. 5-95-019-A2 (Sevedge) applies to Lot No. 7 at 3614 Grand Canal. The owners of Lots No. 7 and 8 received Commission approval of similar

permit amendments on May 8, 1996 [see 5-97-019-A1 (Hickok) & 5-97-019-A2 (Sevedge)].

The owners of the other two lots (Lots No. 5 and 6) declined to be applicants in this amendment request. Therefore, the Commission's action on this amendment request, as conditioned, allows for the revision of the special conditions of the underlying permit as they apply only to Lot No. 4. This action does not prevent or prohibit the owners of Lots No. 5 and 6 from applying for their own permit amendment. The alleged violations of the underlying permit, Coastal Development Permit P-7-23-76-8463 (Lumblau), as it applies to Lots No. 4-8 are being handled under a separate enforcement action.

B. Project Area

The five lots (Lots No. 4-8) subject to the underlying permit, Coastal Development Permit P-7-23-76-8463 (Lumblau), are located on the east bank of Grand Canal in the Venice Canals community (Exhibits #1&2). As previously stated, this amendment request applies only to Lot No. 4. The Venice Canals neighborhood is a predominantly residential community consisting primarily of single family homes located along the open waterway. The neighborhood is located about four blocks from Venice Beach, one of the most popular visitor destinations in Los Angeles.

The Venice Canals are part of the Ballona Lagoon sea water system and are connected with the Ballona Lagoon via Grand Canal. Sea water enters and exits the canals system through a set of tidal gates located at the south end of Ballona Lagoon which connect to the marina entrance channel and the Pacific Ocean (Exhibit #1).

The Venice Canals are a popular visitor destination in Southern California. Public access along the canals and Ballona Lagoon is provided throughout the Venice Canals and Silver Strand neighborhoods by a series of improved public sidewalks, public trails, remnants of the original sidewalks built in the early 1900's, and historic use trails (Exhibit #1,p.2). Public sidewalks run along both sides of each canal and separate the private residences from the waters of the canals. The Venice Canals and canal sidewalks are both located within public rights-of-way. A public access trail which runs along the east bank of Ballona Lagoon connects to the Venice Canals sidewalk system. The Grand Canal Esplanade is the public walkway which has historically provided access along Grand Canal adjacent to the applicant's lot (Exhibit #2).

The public accessways along the east banks of Grand Canal and Ballona Lagoon are uninterrupted except at the site of the five lots subject to Coastal Development Permit P-7-23-76-8463 (Lumblau). Unpermitted development on the City right-of-way known as the Grand Canal Esplanade and on these five lots prohibits lateral public access along Grand Canal at this site. It is the only section of interrupted public access along the Venice Canals and Ballona Lagoon shorelines. The unpermitted development consists of unpermitted fill, fences, rocks, trees, and/or plywood. This alleged violation represents an ongoing loss of coastal resources in the form of diminished availability of a public access opportunity. The applicant proposes to reopen the City Grand Canal Esplanade and restore public access on the public right-of-way along the Grand Canal in front of his lot as part of this amendment request.

C. Project History

The Venice Canals are a unique cultural, historic and scenic resource of Southern California. The canals, which were created as part of the "Venice of America" subdivision in 1905, provide a sense of character and history for the Venice community. They also provide public access, recreation, and wildlife habitat. The canals, along with adjacent Ballona Lagoon, support some of the last remaining pockets of coastal wetland habitat in Los Angeles County.

The canals system fell into disrepair in the 1920's, and many of the original canals were filled by the City in 1927. Only the waterways of Linnie, Howland, Sherman, Eastern, Carroll and Grand Canals were not filled. The residents in the area have been attempting to restore the remaining unfilled canals since the 1960's.

In November of 1991, the Commission approved Coastal Development Permit 5-91-584 (Venice Canals) for the rehabilitation of Linnie, Howland, Sherman, Eastern and Carroll Canals (including the northern portion of Grand Canal). The canals were dredged, relined, and the public sidewalks on both sides of the canals were rebuilt. That project, however, was limited to the Venice Canals located north of Washington Street (Exhibit #1). The portion of Grand Canal located south of Washington Street, where the proposed project is located, was not included in that project. The portion of Grand Canal located south of Washington Street has not been rehabilitated and the canal and public sidewalks located on the City Grand Canal Esplanade have fallen into disrepair (Exhibit #1,p.2).

The five lots subject to Coastal Development Permit P-7-23-76-8463 (Lumblau) have a long history before the Coastal Commission. On November 8, 1976, the predecessor Regional California Coastal Zone Conservation Commission approved Coastal Development Permit P-7-23-76-8463 (Lumblau) for the development of five attached single family residences on five canal fronting lots (Exhibits 2-6). Special conditions were imposed in order to protect the public's ability to walk along Grand Canal and to protect the biological resources in and adjacent to Grand Canal. That permit was issued on September 30, 1977, and construction commenced shortly thereafter.

The City Grand Canal Esplanade had historically provided public access along Grand Canal since 1905 (Exhibit #2). In 1976, Coastal Development Permit P-7-23-76-8463 (Lumblau) prohibited development on the City Grand Canal Esplanade (special condition no. 2) because its elevation was below the mean higher high tide elevation of 2.63'. In order to provide continued public access along Grand Canal and above the high water line, the permit required the applicant to construct a new public sidewalk across the five lots. As required, the public sidewalk was constructed five feet inland of the Grand Canal Esplanade and across Lots No. 4-8 (Exhibit #1,p.2).

In 1988, however, the Commission approved eight single family residences on the lots located immediately south of the site and on the same side of Grand Canal between 3622 and 3807 Via Dolce [see Coastal Development Permits 5-87-657, 658, 659, 965, 966, 967, 968 & 969] (Exhibit #1,p.2). In those permits the Commission found that the existing City Grand Canal Esplanade does provide public access along Grand Canal, and therefore did not require the

construction of a new public sidewalk across the private properties as was required on the five lots subject to Coastal Development Permit P-7-23-76-8463 (Lumblau) (Exhibit #4).

As a result of the construction of the residences approved in 1988, the public sidewalk built across the five lots subject to Coastal Development Permit P-7-23-76-8463 (Lumblau) now abuts a wall and terminates at the residence built on the south side of Lot No. 8 instead of continuing across the adjacent lots as had been planned for in 1976 (Exhibit #1,p.2). In addition, public access along the Grand Canal Esplanade in front of the five lots subject to Coastal Development Permit P-7-23-76-8463 (Lumblau) has been blocked by the placement of unpermitted fill and fences on and across the Grand Canal Esplanade sidewalk. Lateral access along Grand Canal is no longer available in this area.

In 1993, one of the five lot owners subject to Coastal Development Permit P-7-23-76-8463 (Lumblau) applied for Coastal Development Permit 5-93-150 (Nichols) to amend the underlying permit in order to delete the 27 foot height limit contained in special condition no. 9, and to construct a third floor addition on Lot No. 5. On September 16, 1993, the Commission approved Coastal Development Permit 5-93-150 (Nichols) to amend the underlying permit as it applies to Lot No. 5. The height limit was extended to 36 feet so a third story addition could be built.

When Commission staff visited the site in conjunction with Coastal Development Permit application 5-93-150 (Nichols), they discovered permit non-compliance problems and unpermitted development on the five lots and on the City Grand Canal Esplanade. It was then that the Commission staff first discovered that public access along Grand Canal was blocked by unpermitted fill, fences and other development. Since then, staff has pursued the alleged violations and unpermitted development as an enforcement matter.

D. Coastal Access and Recreation

As previously stated, the primary Coastal Act issue in this amendment request involves the public's ability to walk along the banks of the Venice Canals, specifically Grand Canal.

The Venice Canals are a popular visitor destination in Southern California. Public access along the canals and Ballona Lagoon is provided by a series of improved public sidewalks, public trails, remnants of the original sidewalks built in the early 1900's, and historic use trails. These public trails and sidewalks run along both sides of each canal and separate the private residences from the waters of the canals. The Venice Canals and canal sidewalks, which are both located within public rights-of-way, provide many public recreational opportunities including walking, jogging, rowing, fishing, wildlife viewing, and photography.

However, there is currently one section of the Venice Canals and Ballona Lagoon public access system which is currently inaccessible: at the five lots subject to Coastal Development Permit P-7-23-76-8463 (Lumblau) (Exhibit #2). Unpermitted development on portions of these five lots and across Grand Canal

Esplanade prohibits lateral public access along Grand Canal at this site. It is the only section of interrupted public access along the entire Venice Canals and Ballona Lagoon shorelines.

One of the basic goals stated in the Coastal Act is to maximize public access along the coast and to encourage public recreational opportunities. The restoration of public access along this section of Grand Canal is an integral part of the proposed project.

The Coastal Act has several policies which address the issues of public access and recreation.

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30213 of the Coastal Act states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and where feasible, provided. Developments providing public recreational opportunities are preferred...

Section 30220 of the Coastal Act states:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30221 of the Coastal Act states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

The above stated policies of the Coastal Act protect the public's right to access the coast and coastal areas, in this case Grand Canal, in order to enjoy the many lower cost (free) recreational opportunities provided by the Venice Canals including walking, jogging, rowing, fishing, wildlife viewing and photography.

In fact, when the Commission approved Coastal Development Permit P-7-23-76-8463 (Lumblau) in 1976 for the development of the five lots with five attached residences, special conditions no. 4 and 8 were imposed by the Commission in order protect the public's right to walk along the banks of Grand Canal.

Special conditions no. 4 and 8 state:

4. Agree, prior to occupancy of the structure, to construct an improved fenced walkway five feet in width along this easement, the fencing shall be designed to allow viewing of the marsh but to prevent foot traffic and animal intrusion onto the marsh or canal. Provided the sidewalk does not intrude into the canal, it shall be designed according to the specification of the City of Los Angeles. The walkway shall be pervious, and may be fenced provided a method of maintenance has been agreed to by the Bureau of Street Maintenance.
8. So long as the above conditions are fulfilled, the sidewalk may be straight and not follow minor fluctuations of the water line.

Special conditions no. 4 and 8 required the original applicant (Lumblau) to construct a public sidewalk across the five privately owned lots and adjacent to Grand Canal (Exhibit #1, p.2). The required public sidewalk was supposed to improve public access over that which had been historically provided by the Grand Canal Esplanade because subsidence had lowered the elevation of the Grand Canal Esplanade so much that it was partly submerged during high tide.

The public sidewalk was constructed as required, but it was soon fenced-off at the ends at Lots No. 4 and 8 (Exhibit #2). In addition, unpermitted fill and other development has been placed on and across the Grand Canal Esplanade. As a result, the public cannot walk along Grand Canal as required by the Coastal Act and Coastal Development Permit P-7-23-76-8463 (Lumblau).

The applicant has requested the deletion of special conditions no. 4 and 8 of Coastal Development Permit P-7-23-76-8463 (Lumblau) as they apply to Lot No. 4. Pursuant to Section 13166 of the California Code of Regulations, special conditions of Coastal Development Permit P-7-23-76-8463 (Lumblau) can be deleted only if there is new information which could not have, with reasonable diligence, been produced before the permit was granted. In addition, special conditions no. 4 and 8 cannot be deleted unless the amendment will provide alternative public access along Grand Canal pursuant to the access policies of the Coastal Act.

The new information upon which this amendment request is based involves the Commission's 1988 approvals of Coastal Development Permits 5-87-657, 658, 659, 965, 966, 967, 968 and 969 for single family residences on lots located immediately south of the site and on the same side of Grand Canal (Exhibit #1, p.2). In those approvals the Commission found that the existing City Grand Canal Esplanade, although partially submerged during high tide, would continue to provide adequate public access along Grand Canal. Therefore, the Commission did not require the construction of a new public sidewalk across the private properties as was required on the five lots subject to Coastal Development Permit P-7-23-76-8463 (Lumblau).

Based on those 1988 actions, the applicant has proposed to remove all fences, fill and vegetation from the City Grand Canal Esplanade fronting his lot and to resurface the City Grand Canal Esplanade with concrete in order to restore public access along this section of the Grand Canal (Exhibit #3).

The applicant's proposal to restore public access on the Grand Canal Esplanade is consistent with the Commission's 1988 actions which found that the Grand Canal Esplanade, which is a City right-of-way, is an adequate public accessway along this bank and section of Grand Canal. Even though the Grand Canal Esplanade has fallen into disrepair and is partly submerged during periods of high tide, it is passable and continues to provide public access along Grand Canal as it has since its construction in 1905. The proposed project will provide public access and recreation opportunities through the restoration of the Grand Canal Esplanade in front of the applicant's property. Therefore, the Commission finds that the proposed project carries out the public access and recreation policies of the Coastal Act and is consistent with the prior actions in the area.

The amendment, however, must be conditioned in order to ensure that public access is restored along the Grand Canal Esplanade in front of the applicant's property before the special conditions of Coastal Development Permit P-7-23-76-8463 (Lumblau) are revised as they apply to Lot No. 4.

Therefore, the effectiveness of the Commission's revision to the special conditions of Coastal Development Permit P-7-23-76-8463 (Lumblau) as they apply to Lot No. 4 is contingent upon the applicant restoring public access along the Grand Canal Esplanade fronting his property to the satisfaction of the Executive Director.

Public access along the Grand Canal Esplanade shall be deemed restored when the Executive Director has signed a statement concurring that the following has occurred along the Grand Canal Esplanade situated between the applicant's lot and Grand Canal: 1) all fences, fill, vegetation and other encroachments have been removed from the Grand Canal Esplanade right-of-way, 2) the full width of the Grand Canal Esplanade right-of-way has been resurfaced with concrete consistent with the City of Los Angeles specifications and requirements for permanent right-of-way improvements, and 3) the public is able to access and walk along the improved and unobstructed Grand Canal Esplanade right-of-way.

At such time as the the Executive Director determines that public access has been restored along the Grand Canal Esplanade in front of Lot No. 4, consistent with the terms and requirements of this amendment, the applicant will be notified in writing that the special conditions of Coastal Development Permit P-7-23-76-8463 (Lumblau) have been revised so as to delete special conditions no. 2, 4, 7, 8 and 9 as they apply to Lot No. 4.

In addition, in order to ensure that public access is restored in a timely manner, the applicant is required to restore public access along the Grand Canal Esplanade, consistent with the terms and conditions of this amendment and to the satisfaction of the Executive Director, within ninety days of the Commission's action on this amendment, or within such additional time as may be granted by the Executive Director for good cause.

Cognizant of the condition requiring the proposed restoration of the Grand Canal Esplanade to occur within ninety days of the Commission's action on this amendment, the applicant has proposed to construct a retaining wall across the Grand Canal Esplanade in order to prevent the fill from the Esplanade fronting non-participating Lot No. 5 from eroding and being deposited on the restored part of the Esplanade. Because the owner of Lot No. 5 has not applied for Commission approval to restore the portion of the Grand Canal Esplanade fronting Lot No. 5, the applicant is concerned about the junction between the portion of the Esplanade in front of his lot which is proposed to be restored and the portion of the Esplanade in front of Lot No. 5 which is not currently before the Commission in this amendment request. This is a valid concern. However, the construction of a retaining wall or other barrier across the Grand Canal Esplanade is not consistent with the coastal access policies of the Coastal Act, nor is it consistent with the goals of this amendment request to restore public access to the Grand Canal Esplanade. Therefore, this amendment does not approve the construction of a retaining wall or any other barrier across the Grand Canal Esplanade.

Public access can be restored to the Grand Canal Esplanade in front of Lot Nos. 4-8 on a lot by lot basis, or as one project along all five lots. It would be preferable to construct the restored Grand Canal Esplanade in front of all five lots as one project, however, that may not be possible until all five lot owners apply and receive the Commission's approval for the project. With the approval of this amendment request, the owners of Lot Nos. 4, 7 and 8 will have the Commission's approval to undertake the proposed restoration of the Grand Canal Esplanade in front of their lots (Exhibit # 2).

The owners of Lot Nos. 5 and 6 have opposed the restoration project proposed by the owners of Lot Nos. 4, 7 and 8 and have not submitted amendment applications to include themselves in the proposed project. Commission staff is moving forward with enforcement actions in order to restore public access and ultimately resolve the alleged violation involving the loss of public access in front of Lot Nos. 5 and 6. If successful, the owners of Lot Nos. 5 and 6 will agree to participate in the restoration of the Grand Canal Esplanade in order to restore public access in front of all five lots and resolve all of the alleged violations. The cooperation of the owners of Lot Nos. 5 and 6 will enable the proposed restoration of the Grand Canal Esplanade to occur in front of all five lots as one project. If that happens, it will eliminate the concern about any junctions between each lot owner's portion of the Grand Canal Esplanade located in front of each lot.

If the facts of the case necessitate it, the Executive Director can grant the applicant additional time to comply with the requirement to restore public access along Grand Canal by extending the ninety day requirement for restoration of the Grand Canal Esplanade. Additional time has already been granted to the owners of Lot Nos. 7 and 8 [see 5-97-019-A1 (Hickok) & 5-97-019-A2 (Sevedge)] while Commission staff attempts to work with the owners of Lot Nos. 4, 5 and 6.

As stated above, this amendment does not approve the construction of a retaining wall or any other barrier across the Grand Canal Esplanade. As a condition of approval, the applicant acknowledges that the City Grand Canal

Esplanade is a public sidewalk and the applicant shall not encroach onto or over the Grand Canal Esplanade right-of-way or otherwise interfere with the public's use of the Grand Canal Esplanade. The applicant may only temporarily obstruct access along the Grand Canal Esplanade in order to construct the improvements approved by this amendment.

The Commission finds that only as conditioned is the amendment request consistent with the public access and recreation policies of the Coastal Act.

E. Marsh/Esplanade

The applicant has also requested the deletion of special condition no. 2 of Coastal Development Permit P-7-23-76-8463 (Lumblau). Special condition no. 2 states:

2. Stipulate that during construction no fill will be placed in the marsh.

Special condition no. 2 of Coastal Development Permit P-7-23-76-8463 (Lumblau) states that no fill shall be placed in the marsh. The marsh area is the area located between the mean higher high tide line and edge of the Grand Canal right-of-way (Exhibit #2). Most of the marsh is situated on the ten foot wide Grand Canal Esplanade, an improved City right-of-way that is located at elevation 2.3', but below the mean higher high tide line (MHHTL elevation is 2.63'). The Grand Canal Esplanade is the historic public walkway situated between the applicant's property line and the Grand Canal (Exhibit #2). Therefore, this condition effectively prohibited fill and other development in the City Grand Canal Esplanade right-of-way.

The historic public walkway is referred to as the "marsh" in the 1976 permit condition because it is situated below the mean higher high tide elevation of 2.63' (Exhibit #2). Since its construction in 1905, subsidence has lowered the elevation of the Grand Canal Esplanade so much that it is partly submerged during periods of high tide. The unobstructed portion of the Grand Canal Esplanade does, however, sit above the waterline most of the time and is used by pedestrians.

Special condition no. 2 was imposed by the Commission in order to protect the Grand Canal Esplanade from development and to protect any marine resources located below the mean higher high tide elevation of 2.63' and to specifically limit development to the privately owned lots. The Grand Canal Esplanade has little or no habitat value. The Department of Fish and Game and the Fish and Wildlife Service have reviewed the proposal to restore public access along the Grand Canal Esplanade and have raised no objections (Exhibits #6&7).

As previously stated, pursuant to Section 13166 of the California Code of Regulations, special conditions of Coastal Development Permit P-7-23-76-8463 (Lumblau) can be deleted only if there is new information which could not have, with reasonable diligence, been produced before the permit was granted.

The new information upon which this amendment request is based, involves the Commission's 1988 approvals of Coastal Development Permits 5-87-657, 658, 659,

965, 966, 967, 968 and 969 for single family residences on the lots located immediately south of the site and on the same side of the Grand Canal. In the 1988 approvals of Coastal Development Permits 5-87-657, 658, 659, 965, 966, 967, 968 and 969, the Commission found that the existing City Grand Canal Esplanade was not an area which needed protection as a marsh or wetland, but a sidewalk which would continue to provide public access along Grand Canal as it had since its construction in 1905.

Based on the Commission's 1988 actions, the applicant has proposed to remove all fences, fill and vegetation from the City Grand Canal Esplanade located between his lot and Grand Canal, and to resurface the City Grand Canal Esplanade with concrete in order to restore public access along this section of the Grand Canal (Exhibit #3). Special condition no. 2 of Coastal Development Permit P-7-23-76-8463 (Lumbléau) must be deleted in order to allow the applicant to resurface the City Grand Canal Esplanade with a new layer of concrete (Exhibit #3). The fill to be placed on the Grand Canal Esplanade shall be limited to the new concrete that is required to improve the sidewalk for public access.

The applicant's proposed plan, as conditioned, is consistent with the Commission's 1988 actions which found that the Grand Canal Esplanade is an adequate public accessway along this bank and section of Grand Canal. In addition, the proposed project will provide public access and recreation opportunities with the restoration of the public accessway along Grand Canal. Therefore, the Commission finds that the proposed project, as conditioned, carries out the public access and recreation policies of the Coastal Act and is consistent with the prior actions in the area. The amendment is conditioned to limit any fill placed on the Grand Canal Esplanade to only the new materials that are required to improve the sidewalk for public access.

F. Building Height

The applicant has requested the deletion of special condition no. 9 of Coastal Development Permit P-7-23-76-8463 (Lumbléau). Special condition no. 9 states:

9. No portion of the structure may be higher than 27 feet above the sidewalk, which shall be constructed without unreasonable fill, according to the diagram submitted by the applicant.

Special condition no. 9 was imposed by the Commission in order to protect public views and community character from excessive building heights and bulks that can negatively impact the environment of coastal areas. Section 30251 of the Coastal Act protects public views and community character from excessive building heights and bulks that can negatively impact the environment of coastal areas. The Commission routinely requires building setbacks and limits the heights of structures to ensure that they do not negatively impact the character of existing communities.

Section 30251 of the Coastal Act states in part that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development

shall be sited and designed to protect views along the ocean and scenic coastal areas...be visually compatible with the character of surrounding areas...

As previously stated, pursuant to Section 13166 of the California Code of Regulations, special conditions of Coastal Development Permit P-7-23-76-8463 (Lumblau) can be deleted only if there is new information which could not have, with reasonable diligence, been produced before the permit was granted. The new information involves the Commission's 1988 approvals of Coastal Development Permits 5-87-657, 658, 659, 965, 966, 967, 968 and 969 for the adjacent lots, and the 1993 approval of Coastal Development Permit 5-93-150 (Nichols). The approval of amendments 5-97-019-A1 (Hickok) and 5-97-019-A2 (Sevedge) are also relevant.

In the 1988 approvals of Coastal Development Permits 5-87-657, 658, 659, 965, 966, 967, 968 and 969, the Commission found that a height limit of 36 feet above the centerline of Via Dolce was appropriate for the single family residences on the same side of Grand Canal as the project site.

Later, in 1993, Coastal Development Permit 5-93-150 (Nichols) was approved as an amendment to the underlying permit, Coastal Development Permit P-7-23-76-8463 (Lumblau), as it applied to one lot (Lot No. 5) in order to delete the 27 foot height limit contained in special condition no. 9 and to construct a third floor addition. Based on the Commission's actions in 1988, the height limit on Lot No. 5 was extended to 36 feet above the centerline of Via Dolce. The structure on Lot No. 5 is currently reaches an approximate height of 36 feet above the centerline of Via Dolce.

The Commission's 1996 approvals of amendments 5-97-019-A1 (Hickok) and 5-97-019-A2 (Sevedge) also included a height limit increase to 36 feet for Lot Nos. 7 and 8.

The primary Coastal Act issue involved with the proposed deletion of the height limit contained in special condition no. 9 is the impact on public views and community character. The Commission must decide if the character of the community has changed since 1976, and if an increase in height will impact public views or community character.

When the existing structure was approved by the Commission in 1976, the Commission determined that the proper height limit for the area was 27 feet above the grade elevation of the site. As previously stated, the Commission used different height limits and setback requirements in 1988 when it allowed the construction of eight single family residences on eight adjacent lots. In 1993, the Commission allowed one lot subject to Coastal Development Permit P-7-23-76-8463 (Lumblau) build up to 36 feet above the centerline of Via Dolce.

In the Commission's 1988, 1993 and 1996 actions it found that because the sites are located adjacent to Grand Canal, which has public walkways along both banks, there is a public view and community character issue. However, the Commission also found that residential structures built up to a height of 36 feet above Via Dolce would not block any views since a two-story building blocks as much of the view to and from Grand Canal as a three-story building 36 feet high.

In the 1988 and 1996 approvals, the Commission acknowledged that there were higher structures in the vicinity, such as a 71 foot high senior citizen building located north of the subject site near the intersection of Via Dolce and Washington Street, and other high rise buildings in Marina del Rey, but found that the development of single family residences along Grand Canal should be limited to a height of 36 feet above Via Dolce in order to conform to the height of structures closer to the subject area.

Therefore, based on the requirements of Section 30251 of the Coastal Act and prior Commission actions, the Commission finds that the structure subject to this permit amendment will conform to the existing character of the community if it is limited to a height limit of 36 feet above the centerline elevation of Via Dolce.

Special condition no. 9 Coastal Development Permit P-7-23-76-8463 (Lumblau) may be deleted as it applies to Lot No. 4 only if it is replaced with a condition which limits the structure's height to 36 feet above the centerline elevation of Via Dolce. Only as conditioned is the proposed amendment consistent with Section 30251 of the Coastal Act.

It must be noted, however, that this amendment does not itself authorize any building additions. Any proposed additions may require another amendment or a new Coastal Development Permit. The lot owner should contact Commission staff prior to adding any height or floor area to the residence in order to determine what, if any, permits are required.

G. Construction Setback

The applicant has also requested the deletion of special condition no. 7 of Coastal Development Permit P-7-23-76-8463 (Lumblau). Special condition no. 7 states:

7. Enter a deed restriction preventing all construction, except the walkways, fences or pervious decks, between the line of the twenty foot setback from the mean higher high tide line and the canal.

Special condition no. 7 was imposed by the Commission in order to protect the public sidewalk, public views and community character from structural encroachments that can negatively impact the environment of coastal areas. The mean higher high tide line referred to in special condition no. 7 corresponds to the boundary between the applicant's private property line and the inland extent of the Grand Canal Esplanade. In effect, the condition protected the Grand Canal Esplanade, as well as the public sidewalk built across Lot Nos. 5-8 from being encroached upon by the approved residential structures and future additions.

Section 30251 of the Coastal Act protects public views and community character from excessive building bulks and encroachments that can negatively impact the environment of coastal areas. The Commission routinely requires building setbacks and limits the heights of structures to ensure that they do not negatively impact the character of existing communities. Section 30251 of the Coastal Act states in part that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views along the ocean and scenic coastal areas...be visually compatible with the character of surrounding areas...

As previously stated, pursuant to Section 13166 of the California Code of Regulations, special conditions of Coastal Development Permit P-7-23-76-8463 (Lumblau) can be deleted only if there is new information which could not have, with reasonable diligence, been produced before the permit was granted. Once again, the new information involves the Commission's 1988 approvals of Coastal Development Permits 5-87-657, 658, 659, 965, 966, 967, 968 and 969 for the adjacent lots south of the site. In the 1988 approvals, the Commission approved eight residential structures which were set back only ten feet from the City Grand Canal Esplanade right-of-way instead of twenty feet.

The approval of amendments 5-97-019-A1 (Hickok) and 5-97-019-A2 (Sevedge) are also relevant in that special condition no. 7 of Coastal Development Permit P-7-23-76-8463 (Lumblau) was deleted as it applies to Lot Nos. 7 and 8.

The primary Coastal Act issue involved with the proposed deletion of the setback requirement contained in special condition no. 7 is the impact on public access, public views and community character. A reduction in the building setback requirement from twenty feet from the Grand Canal Esplanade to ten feet inland from the Grand Canal Esplanade will not negatively impact public access, public views or community character. A ten foot setback would allow the applicant's residential stringline to align with the stringline of the adjacent residences which are already built on the lots south of the site pursuant to the Commission's 1988 approvals. A ten foot setback is consistent with the setback on the majority of the adjacent lots, and would restrict future encroachments from occupying the ten foot wide front yard area which separates the residential structures from the Grand Canal Esplanade.

Therefore, a ten foot setback conforms to the character of the community and will not allow the interruption of any public views. In addition, there would be no impact on public access along the Grand Canal Esplanade with a ten foot setback requirement. A ten foot setback from the Grand Canal Esplanade would adequately protect the accessway from residential encroachments.

Based on the requirements of Section 30251 of the Coastal Act and prior Commission actions, the Commission finds that the structure subject to this permit amendment will conform to the existing character of the community if it is required to maintain a setback of at least ten feet between the residential structure on Lot No. 4 and the City Grand Canal Esplanade right-of-way.

Therefore, special condition no. 7 Coastal Development Permit P-7-23-76-8463 (Lumblau) may be deleted as it applies to Lot No. 4, but only if it is replaced with a condition which requires a ten foot setback between the structure and the City Grand Canal Esplanade right-of-way. It must be noted, however, that this amendment does not itself authorize any building additions. Any proposed additions may require another amendment or a new Coastal Development Permit. The lot owner should contact Commission staff prior to adding any height or floor area to the residence in order to determine what, if any, permits are required.

The Commission finds that, as conditioned by the special conditions of this permit amendment, the deed restriction recorded pursuant to special condition no. 7 of Coastal Development Permit P-7-23-76-8463 (Lumblau) as it applies to Lot No. 4 may be extinguished by the applicant. Only as conditioned is the proposed amendment consistent with Section 30251 of the Coastal Act.

H. Existing Accessory Improvements

This amendment also requests approval of existing accessory improvements in the front yard area more than ten feet and less than twenty feet inland from the Grand Canal Esplanade. The existing development in the front yard area consists of landscaping, low brick walls and brick walkways (Exhibit #3). The existing landscaping and walkways are consistent with the limitations of special condition no. 7 of Coastal Development Permit P-7-23-76-8463 (Lumblau). The existing landscaping and walkways in the front yard area more than ten feet and less than twenty feet inland from the Grand Canal Esplanade are also consistent with special condition no. 5 of this amendment.

It is unclear, however, whether the existing brick walls in the front yard area located more than ten and less than twenty feet from the Grand Canal Esplanade were constructed in conformance with the requirements of the Coastal Act. Although brick walls are shown on some plans in the permit file, the existing brick walls in the front yard area are not consistent with the limitations of special condition no. 7 of Coastal Development Permit P-7-23-76-8463 (Lumblau).

The existing accessory improvements in the front yard area more than ten feet and less than twenty feet inland from the Grand Canal Esplanade, including the brick walls, do not negatively impact coastal resources. Therefore, the Commission finds that the existing accessory improvements in the front yard area more than ten feet and less than twenty feet inland from the Grand Canal Esplanade, including the brick walls, comply with the requirements of the Coastal Act and are in conformance with the requirements of this permit amendment. Once the special conditions of Coastal Development Permit P-7-23-76-8463 (Lumblau) are revised in order to delete special conditions no. 2, 4, 7, 8 and 9 as they pertain to the applicant's lot, the existing accessory improvements in the front yard area more than ten feet and less than twenty feet inland from the Grand Canal Esplanade, including the brick walls, will be in compliance with the requirements of the Coastal Act.

It must again be noted, however, that this amendment does not itself authorize any new improvements in the front yard area more than ten feet and less than twenty feet inland from the Grand Canal Esplanade. Any future improvements to this area may require another amendment or a new Coastal Development Permit. The lot owner should contact Commission staff prior to undertaking any future improvements in the front yard area in order to determine what, if any, permits are required.

I. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a

Coastal Development Permit amendment only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act.

Section 30604(a) states:

- (a) Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). A denial of a Coastal Development Permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

The Local Coastal Plan (LCP) for the Venice Canals/Marina Peninsula area was certified with suggested modifications in June, 1983. The findings adopted by the Commission at that time stressed the importance of improving the Venice Canal public rights-of-way in meeting the access and recreation policies of the Coastal Act. However, the City did not accept the Commission's suggested modifications and certification of the LCP has lapsed. In any case, the proposed amendment is consistent with the modified policies of the LCP.

The proposed amendment, only as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the proposed amendment, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

J. California Environmental Quality Act

Section 13096 of the California Code of Regulations requires Commission approval of Coastal Development Permit amendment to be supported by a finding showing the amendment, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(1) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

The proposed amendment, only as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that the proposed amendment, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

K. Violation

Although some development on the site, including the failure to provide public access along Grand Canal as required by the underlying permit, may have taken place without a valid Coastal Development Permit, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred. The Commission will act on this application without prejudice and will act on it as if none of the existing unpermitted development had previously occurred.

Commission staff has undertaken an investigation of alleged violations on five lots (Lot Nos. 4-8) involving non-compliance with the special conditions of Coastal Development Permit P-7-23-76-8463 (Lumblau) (Exhibit #4). One of the alleged violations involves the status of the existing brick walls in the front yard areas located more than ten and less than twenty feet from the Grand Canal Esplanade.

It is unclear whether the existing brick walls in the front yard areas located more than ten and less than twenty feet from the Grand Canal Esplanade were constructed in conformance with the requirements of the Coastal Act. There are no records which indicate that the existing brick walls were approved by the Commission or its staff. Although brick walls are shown on some unsigned plans in the permit file, the existing brick walls in the front yard areas are not consistent with the limitations of special condition no. 7 of Coastal Development Permit P-7-23-76-8463 (Lumblau).

In order to remedy the situation, staff contacted the applicant and requested that he seek permission to retain the existing brick walls located in the front yard area located more than ten and less than twenty feet from the Grand Canal Esplanade as part of this amendment request. This amendment will result in the deletion of special condition no. 7 (as it pertains to the subject property), thereby eliminating the restrictions on the development that can occur in the "former" setback area, and will determine such development to be consistent with the Chapter 3 policies of the Coastal Act. Therefore, this action will resolve the issue concerning the status of the existing development located in the front yard area more than ten and less than twenty feet from the Grand Canal Esplanade.

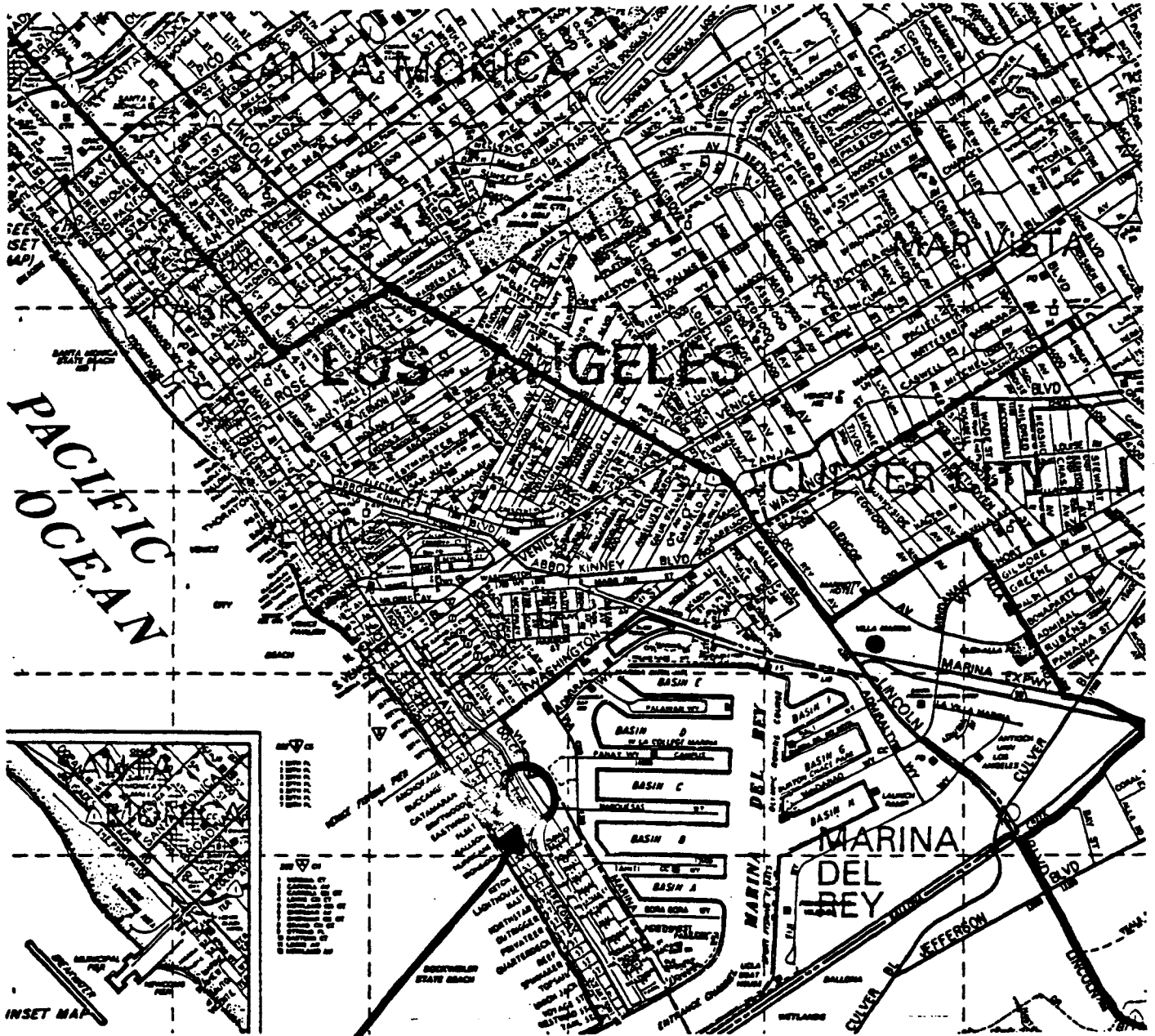
The investigation of the alleged violations on the five lots also involves non-compliance with the special conditions of Coastal Development Permit P-7-23-76-8463 (Lumblau) which require the provision of public access along Grand Canal.

As previously stated, two of the owners of the original five lots subject to Coastal Development Permit P-7-23-76-8463 (Lumblau) have already received the Commission's approval of a similar amendment. Amendment 5-95-019-A1 (Hickok) applies to Lot No. 8 at 3618 Grand Canal, and Amendment 5-95-019-A2 (Sevedge) applies to Lot No. 7 at 3614 Grand Canal (Exhibit #2). The applicant for this amendment is the owner of Lot No. 4. The owners of Lots No. 5 and 6 have declined to submit similar amendment requests. Therefore, the Commission's action on this amendment request only applies to Lot No. 4. This action does

not prevent or prohibit the owners of Lots No. 5 and 6 from applying for their own permit amendments.

The alleged violations of the underlying permit, Coastal Development Permit P-7-23-76-8463 (Lumblau), are being addressed by Commission staff through enforcement actions.

9018F:CP

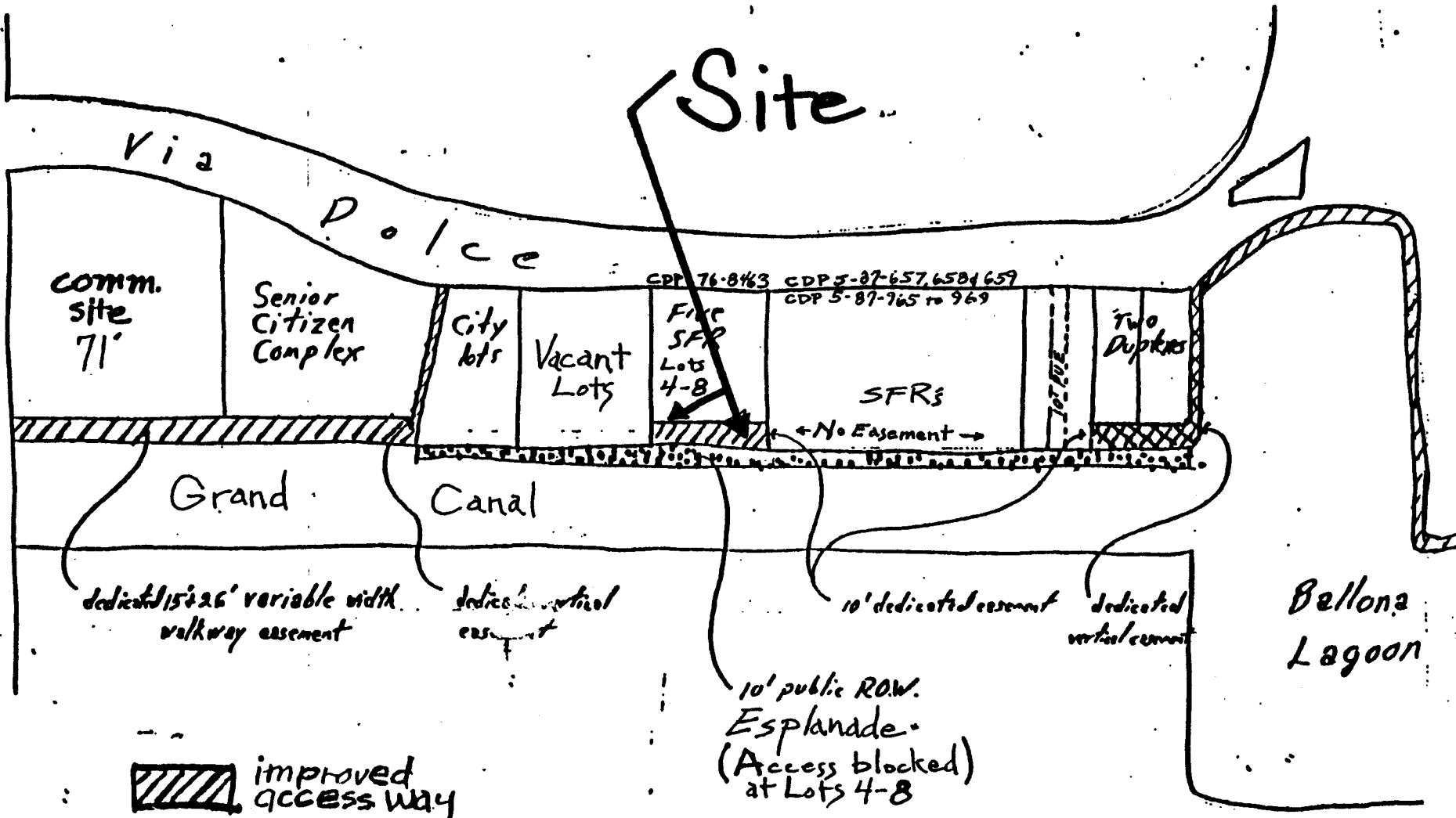


Site

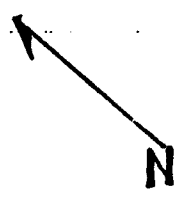
COASTAL COMMISSION
5-95-019-A3

EXHIBIT # 1
PAGE 1 OF 2

Washington Street



- improved access way
- unimproved access way
- deteriorated Public ROW - Grand Canal Esplanade c. 1905



* not to scale

COASTAL COMMISSION
5-95-09-A3

EXHIBIT # 1
PAGE 2 OF 2

Property & Topographic Survey
made for

John J. Lumbicau

Note: The elevations shown on this plot are on the Mean Sea Level Datum as maintained by the L.A.C.E. (Los Angeles City Engineer) & the U.S. Geological Survey. Mean Higher High Water line was established as +2.63 above M.S.L. 0.00. The 1976 Time Tables published by Dept. Commerce is the current reference.

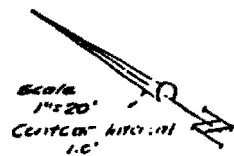
Bench Mark Reference
(1960 Precise Adjust)
Spk N curb Pacific Ave.
40' S/o Eastwind St.
CHV. = 12.61 LAGE FB
27596 pg 32

All points set contain L.C.
Surveyor Tag No. 3167

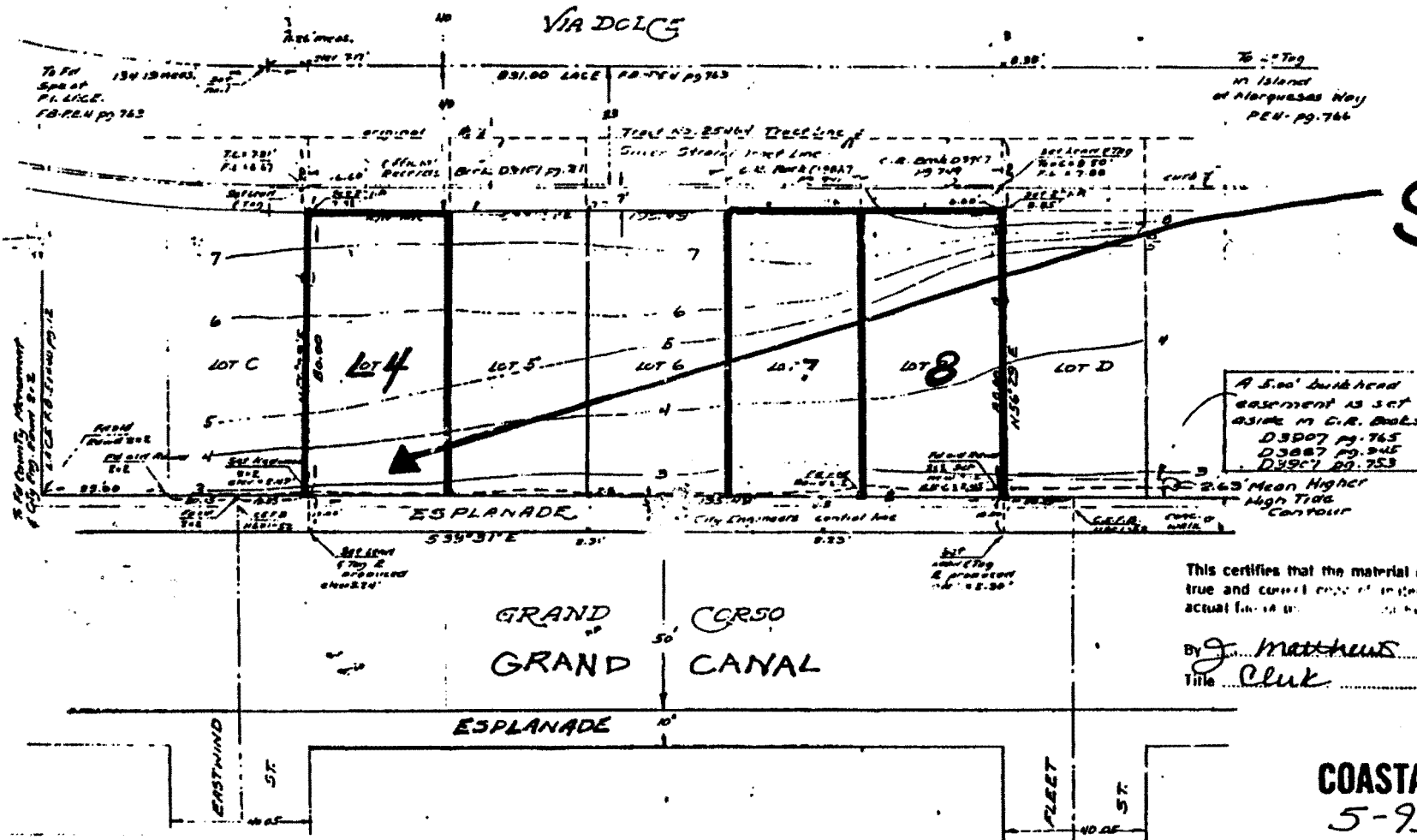
Harold E. Seidenstucker
Licensed Surveyor
No 3167

Property Survey of
Lots 4, 5, 6, 7, 8, Block
6, Silver Strand Tract
recorded in Map Book 7
pg. 86 Official Records,
County of Los Angeles
California. The exceptions
are noted on the plot
as recorded in official
records Book D3907-761
D3907-941
D3907-745.

Surveyed
Oct. 2, 1976



VIA DOLCE



Site

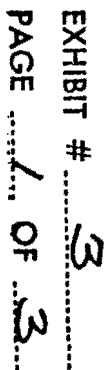
A 5.00' building
easement is set
aside in C.R. Books
D3907 pg. 765
D3907 pg. 945
D3907 pg. 753

This certifies that the material contained herein is a
true and correct copy of material contained in the
actual file in the Department of Public Works Commission.

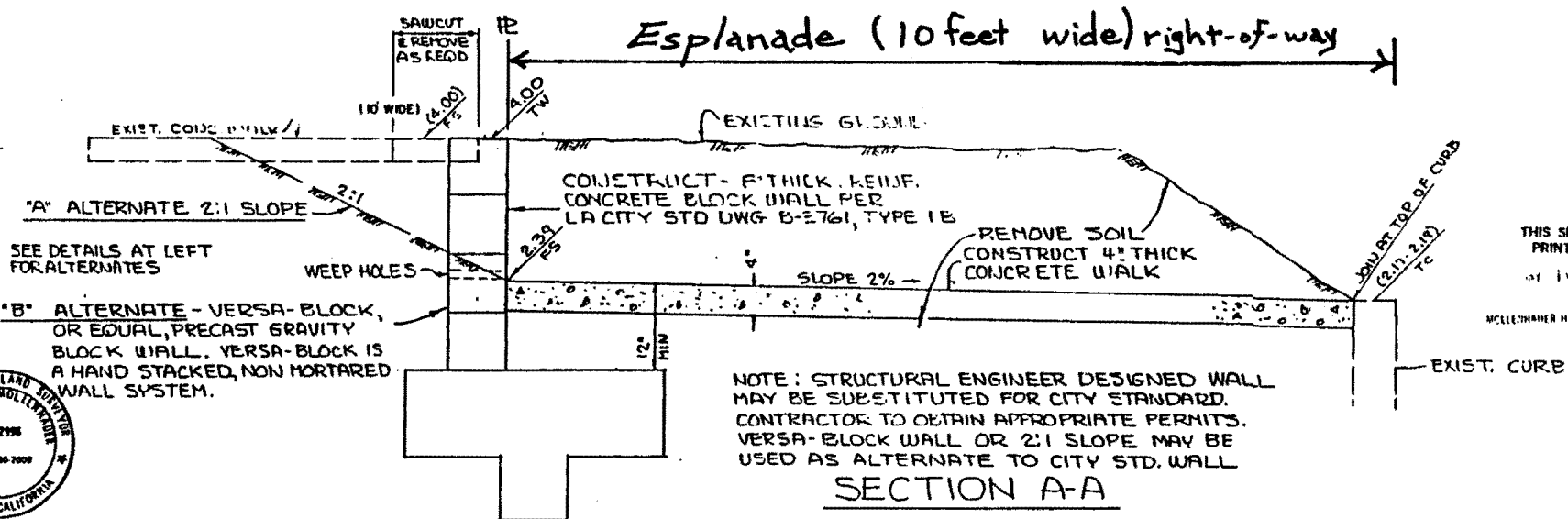
By J. Matthews
Title Clerk Date 12-18-78

COASTAL COMMISSION
5-95-019-A3

EXHIBIT # 2
PAGE 1 OF 1



COASTAL COMMISSION
5-95-019-A

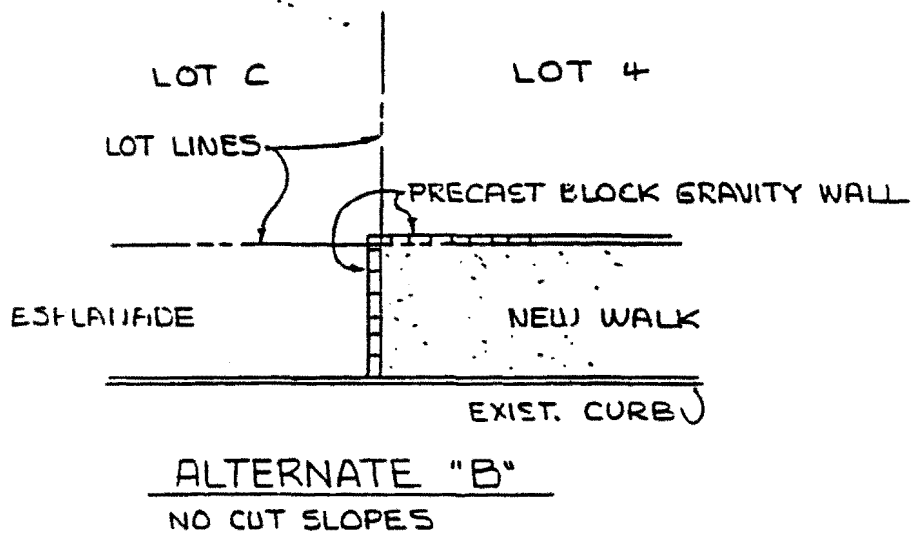
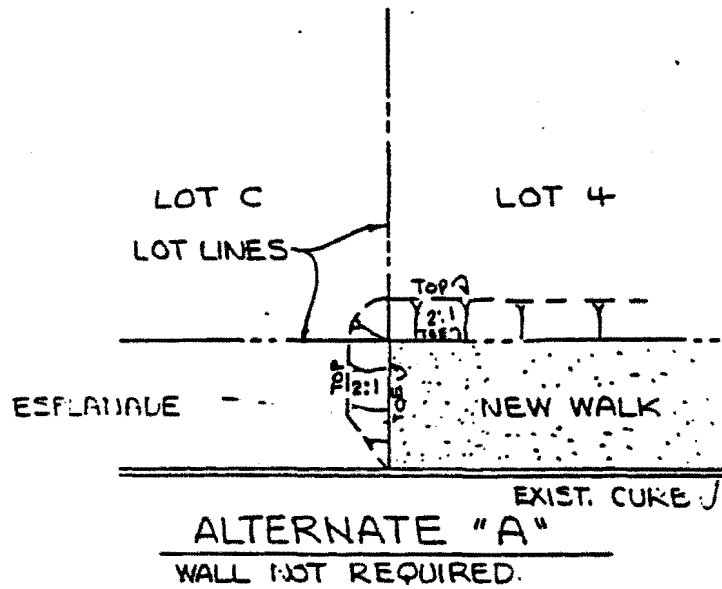


LOT 4 COASTAL PERMIT PLAN

Surveyors or Engineers Statement <small>I, the undersigned, a duly Licensed Land Surveyor of the State of California, hereby certify that this map, consisting of 1 sheet, represents a true and correct copy of the original map as shown to me by the owner or his agent, and that the same is a true and correct copy of the original map as shown to me by the owner or his agent, and that the same is a true and correct copy of the original map as shown to me by the owner or his agent.</small>		Date Feb 17, 97		Revisions		By		Survey Prepared for LAW OFFICES OF DAVID BOSS		Survey No. 16837		Scale 1" = 10'		Date 11-18-96	
Added Additional ELEVATIONS LOTS 2 & 4 11-18-96		DRAFT S.D.H.		CHECKED S.		DATE 11-18-96		DATE 11-18-96		DATE 11-18-96		DATE 11-18-96		DATE 11-18-96	

COASTAL COMMISSION
5-95-019-A3

EXHIBIT # 3
PAGE 2 OF 3



PORTION OF LOT 4
BLOCK 6
SILVER STRAND

M.B. 7-86

COASTAL COMMISSION

5-95-019-A3

EXHIBIT # 3

PAGE 3 OF 3

CALIFORNIA COASTAL ZONE CONSERVATION COMMISSION
SOUTH COAST REGIONAL COMMISSION
666 E. OCEAN BOULEVARD, SUITE 3107
P. O. BOX 1450
LONG BEACH, CALIFORNIA 90801
(213) 426-1201 (714) 846-0648

590-5071

RESOLUTION OF APPROVAL AND PERMIT

FILE COPY

Application Number: P-7-23-76-8463
Name of Applicant: John J. Lumbleau
519 South Western Avenue, Los Angeles, CA 900

Permit Type: ☒ Standard
☐ Emergency

Development Location: Lots 4, 5, 6, 7, and 8, Block 6, Silver
Strand Tract on Via Dolce, Venice, CA

Development Description: Construct five, three-story, single-
family dwellings, 33 feet above centerline of frontage road,
with conditions.

Commission Resolution:

- I. The South Coast Conservation Commission finds that the proposed development:
- A. Will not have a substantial adverse environmental or ecological effect.
 - B. Is consistent with the findings and declarations set forth in Public Resources Code Sections 27001 and 27302.
 - C. Is subject to the following other resultant statutory provisions and policies:
City of Los Angeles ordinances.
 - D. Is consistent with the aforesaid other statutory provisions and policies in that:
approval in concept has been issued.
 - E. The following language and/or drawings clarify and/or facilitate carrying out the intent of the South Coast Regional Zone Conservation Commission:
application, site map, plot plan and approval in concept.

COASTAL COMMISSION

5-95-019-A3
EXHIBIT # 4
PAGE 1 OF 3

Whereas, at a public hearing held on November 8, 1976 at
(date)

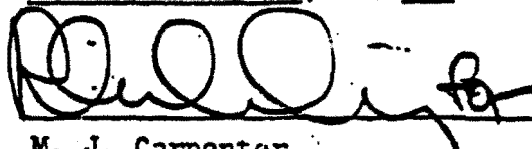
Torrance by a 8 to 2 vote hereby approves
(location)

the application for Permit Number P-7-23-76-8463 pursuant to
the California Coastal Zone Conservation Act of 1972, subject to
the following conditions imposed pursuant to the Public Resources
Code Section 27403:

See attached for conditions.

Condition/s Met On 9/29/77 By dp CUI

- III. Said terms and conditions shall be perpetual and bind all future owners and possessors of the property or any part thereof unless otherwise specified herein.
- IV. The grant of this permit is further made subject to the following:
- A. That this permit shall not become effective until the attached verification of permit has been returned to the South Coast Regional Conservation Commission upon which copy all permittees have acknowledged that they have received a copy of the permit and understood its contents. Said acknowledgement should be returned within ten working days following issuance of this permit.
 - B. Work authorized by this permit must commence within 360 days of the date accompanying the Executive Director's signature on the permit, or within 480 days of the date of the Regional Commission vote approving the project, whichever occurs first. If work authorized by this permit does not commence within said time, this permit will automatically expire. Requests for permit extensions must be submitted 30 days prior to expiration, otherwise, a new application will be required.
- V. Therefore, said Permit (Standard, ~~Emergency~~) No. P-7-23-76-8463 is hereby granted for the above described development only, subject to the above conditions and subject to all terms and provisions of the Resolution of Approval by the South Coast Regional Conservation Commission.
- VI. Issued at Long Beach, California on behalf of the South Coast Regional Conservation Commission on September 30, 1977.



M. J. Carpenter
Executive Director

dh

7976

COASTAL COMMISSION

5-95-019-A3

EXHIBIT # 4

PAGE 2 OF 3

Conditions for P-8463

Prior to issuance of permit, applicant shall:

1. submit a resurvey of the lots showing the location of the latest available mean higher high tide line;
2. stipulate that during construction no fill will be placed in the marsh;
3. cause to be recorded a public easement dedicated to the City of Los Angeles or the State of California, said easement shall be a strip 10 feet wide along the mean higher high tide line extending from Lot 4 to Lot 8;
4. agree, prior to occupancy of the structure, to construct an improved fenced walkway 5 feet in width along this easement, the fencing shall be designed to allow viewing of the marsh but to prevent foot traffic and animal intrusion onto the marsh or canal. Provided the sidewalk does not intrude into the canal, it shall be designed according to specification of the City of Los Angeles. The walkway shall be pervious, and may be fenced provided a method of maintenance has been agreed to by the Bureau of Street Maintenance.
5. submit revised plans indicating all portions of the structures set back 20 feet from the mean higher high tide line except open second story decks which may extend to 14 feet from the mean higher high water;
6. submit revised plans that include a drainage plan which prevents any runoff into the canal and disposes of all but the heaviest storm flows on site in a French drain (gravel filled well);
7. enter a deed restriction preventing all construction, except the walkways, fences or pervious decks, between the line of 20 foot set back from the mean higher high tide line and the canal;
8. so long as the above conditions are fulfilled, the sidewalk may be straight and not follow minor fluctuations of the water line; and
9. no portion of the structure may be higher than 27 feet above the sidewalk, which shall be constructed without unreasonable fill, according to diagram submitted by the applicant.

* * *

COASTAL COMMISSION
5-95-019-A3

EXHIBIT # 4
PAGE 3 OF 3

BOARD OF PUBLIC WORKS
MEMBERS

J. P. ELLMAN
PRESIDENT
VALERIE LYNNE SHAW
VICE-PRESIDENT
M. E. "RED" MARTINEZ
PRESIDENT PRO-TEM
ELLEN STEIN
TOD A. BURNETT

JAMES A. GIBSON
SECRETARY

CITY OF LOS ANGELES
CALIFORNIA



RICHARD J. RIORDAN
MAYOR

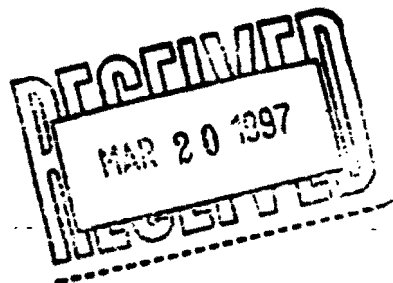
DEPARTMENT OF
PUBLIC WORKS

BUREAU OF
ENGINEERING

SAM L. FURUTA
CITY ENGINEER

650 SOUTH SPRING ST., SUITE 200
LOS ANGELES, CA 90014-1911

March 18, 1997



Elliot Horowitz
c/o Law Office of David G. Boss
550 West B Street, suite 340
San Diego, CA 92101

**PERMISSION FOR ESPLANADE (SIDEWALK) CONSTRUCTION IN THE VENICE
CANALS ADJACENT TO GRAND CANAL SOUTH OF WASHINGTON BOULEVARD
(3602 GRAND CANAL)**

Dear Mr. Horowitz:

This letter is in response to your request to reconstruct a portion of sidewalk known as the Venice Canals Esplanade adjacent to your home on Grand Canal. In February, 1997, a plan was submitted from Mollenhaur, Higashi and Moore displaying the existing conditions in this area and the proposed improvements. After reviewing those plans, my office is prepared to issue an "A"-Permit for the construction of this improvement.

In order to obtain this over-the-counter permit either you or your contractor will have to come to the West Los Angeles Bureau of Engineering District Office at 1828 Sawtelle Boulevard, Third Floor, Public Counter. The fee for the "A"-Permit will be \$106.00, a basic fees, plus 6 hours of inspection time at \$57.50/hour and a 9% surcharge for a total of \$491.59.

If you have any further questions or comments please contact Medhat Iskarous of my staff at (310) 575-8388.

Sincerely,

Homer M. Morimoto, District Engineer
West Los Angeles District
Bureau of Engineering

5-95-019-AZ

RECEIVED
APR 3 1997

COASTAL COMMISSION
5-95-019-AZ

ML:vd
A:19BPRM8.WP

EXHIBIT # 5

PAGE 1 OF 1

ADDRESS ALL COMMUNICATIONS TO THE CITY ENGINEER

AN EQUAL EMPLOYMENT OPPORTUNITY - AFFIRMATIVE ACTION

California Department of Fish and Game
330 Golden Shore, Suite 50
Long Beach, CA 90802

THE RESOURCES AGENCY

January 31, 1995

Mr. Michael Hickok
3618 Grand Canal Esplanade
Marina del Rey, CA 90292

Dear Mr. Hickok:

This letter is in response to your January 26, 1995 letter regarding Coastal Commission Permit Application No. 5-95-019A. From your description about the canal in front of your property, it appears that it has sea water and is not estuarine or freshwater. Nearby or upstream is probably some kind of a detention basin, which apparently has no direct/freshwater inflows into the canal by way of an earthen channel or streambed. *(continue of)*

Based on the information presented, we believe that a 1603 notification may not be necessary. If you have further questions, please either call me at (714) 965-2317, or for impacts to marine waters, contact Mr Richard Nitsos at the above address, or by telephone -(310) 590-5174.

Sincerely,



Krishan B. Lal
Environmental Specialist III

cc: Mr. Curt Taucher, ESS
Mr. Richard Nitsos, MRD

From File No. 5-95-019-A1

COASTAL COMMISSION
5-95-019-A3

EXHIBIT # 6
PAGE 1 OF 1



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
Carlsbad Field Office
2730 Loker Avenue West
Carlsbad, California 92008

RECEIVED

MAR 31 1995

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT
March 30, 1995


Mr. Michael Hickok
3618 Grand Canal Esplanade
Marina del Rey, CA 90292

Re: Coastal Commission Permit Application No. 5-95-019A

Dear Mr. Hickok:

The Fish and Wildlife Service (Service) has examined your letter description and plot map of your proposed project adjacent to the Grand Canal in Marina del Rey. The Service discerns no fish and wildlife, wetland, or other sensitive habitat issue in your project description. Consequently, we would have no objection to the further consideration of your application by the Coastal Commission.

Sincerely,


Gail Kobetich
Field Supervisor

cc: CCC, LB

From File No. 5-95-019-A1

COASTAL COMMISSION

5-95-019-A

EXHIBIT # 7

PAGE 1 OF 1

CALIFORNIA COASTAL COMMISSION

page 1 of 3

SOUTH COAST AREA

245 W. BROADWAY, STE. 380

P.O. BOX 1430

LONG BEACH, CA 90802-4416

(310) 590-5071

AMENDMENT TO COASTAL DEVELOPMENT PERMITDate 17 May 1996

Permit Number P-7-23-76-8463 for: the construction of five attached three-story single family dwellings, 33 feet above centerline of frontage road.

At: 3614 Grand Canal (Lot No. 7), Venice, City of Los Angeles

has been amended by Amendment No. 5-95-019-A2 (Annette Sevedge) to include the following changes:

1) Revise special conditions of Coastal Development Permit P-7-23-76-8463 (Lumblau) in order to delete special conditions no. 2, 4, 7, 8 and 9 as they pertain to Lot No. 7; 2) within ninety days of the granting of the amendment, remove all fences, fill and vegetation from the City Grand Canal Esplanade located between the applicant's lot and the Grand Canal; 3) resurface the City Grand Canal Esplanade with concrete for public access; 4) receive approval of existing accessory improvements in the applicant's front yard area more than ten feet and less than twenty feet inland from the Grand Canal Esplanade; and 5) erect a 2-3 foot high fence between the City Grand Canal Esplanade and the applicant's front yard area.

more specifically described in the application filed in the Commission offices.

Unless changed by the amendment, all conditions attached to the existing permit remain in effect. For your information, all the imposed conditions are attached. This amendment will become effective upon return of a signed copy of this form to the Commission Office. Please note that the original permit conditions unaffected by this amendment are still in effect.

PETER M. DOUGLAS
Executive Director

By: Title: Coastal Program AnalystACKNOWLEDGMENT

I have read and understand the above amendment and agree to be bound by the conditions as amended of Permit No. 5-95-019-A2.

Date _____

Signature _____

COASTAL COMMISSION5-95-019-A3EXHIBIT # 8PAGE 1 OF 4

AMENDMENT TO COASTAL DEVELOPMENT PERMIT

Page 2 of 3
Permit Application No. 5-95-019-A2

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

1. Revision to 1976 Special Conditions

The revision to the special conditions of Coastal Development Permit P-7-23-76-8463 (Lumblau) so that special conditions no. 2, 4, 7, 8 and 9 no longer apply to Lot No. 7 (Sevedge) shall not be effective until the applicant has restored public access along the Grand Canal Esplanade fronting her property. Public access along the Grand Canal Esplanade shall be deemed restored when the Executive Director has signed a statement concurring that the following has occurred along the Grand Canal Esplanade situated between the applicant's lot and the Grand Canal: 1) all fences, fill, vegetation and other encroachments have been removed from the Grand Canal Esplanade right-of-way, 2) the full width of the Grand Canal Esplanade right-of-way has been resurfaced with concrete consistent with the City of Los Angeles specifications and requirements for permanent right-of-way improvements, and 3) the public is able to access and walk along the improved and unobstructed Grand Canal Esplanade right-of-way.

EXHIBIT # 8

PAGE 2 OF 4

AMENDMENT TO COASTAL DEVELOPMENT PERMIT

Page 3 of 3
Permit Application No. 5-95-019-A2

2. Timing of Completion of Work

Public access along the Grand Canal Esplanade shall be restored, consistent with the terms and conditions of this amendment and to the satisfaction of the Executive Director, within ninety days of the Commission's action on this amendment, or within such additional time as may be granted by the Executive Director for good cause.

3. City Esplanade

The applicant acknowledges, through the acceptance of this permit amendment, that the City Grand Canal Esplanade is a public sidewalk and that the applicant shall not encroach onto or over the Grand Canal Esplanade right-of-way or otherwise interfere with the public's use of the Grand Canal Esplanade.

4. Height

The height of structures on Lot No. 7 shall not exceed 36 feet above the centerline of the frontage road, Via Dolce. All future construction on Lot No. 7 shall conform to a 36 feet above the centerline of Via Dolce height limit.

5. Setback from Esplanade

No portion of any residential structure on Lot No. 7 shall encroach within ten feet of the City Grand Canal Esplanade right-of-way.

:b11

6989F

COASTAL COMMISSION

EXHIBIT # 8
PAGE 3 OF 4

South Coast District Office

APPROVED

Permit No.

5-15-09-A1&A2

By:

EFFECTIVE

Date:

MAY 17, 1996

For Lot Nos. 7 & 8.

AIC# 3/15/95.

6

7

BLOCK

8

6

SILVER

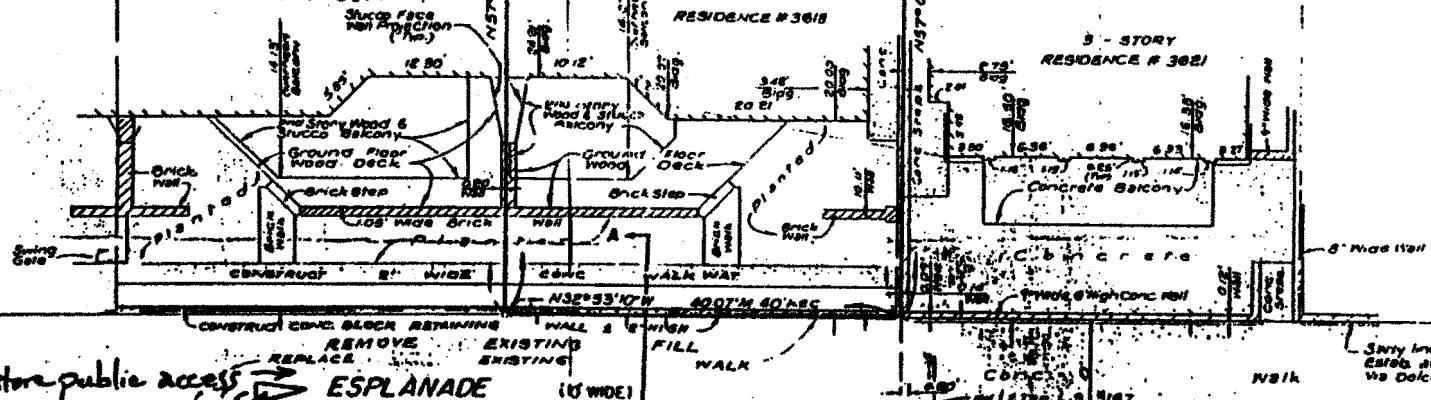
M.B. 7-86

STRAND

RESIDENCE # 3614

RESIDENCE # 3618

3-STORY
RESIDENCE # 3621

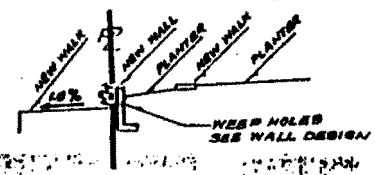


← Restore public access → ESPLANADE (15' WIDE)

GRAND

(50' WIDE)

CANAL



SECTION A-A'
SCALE: 1" = 10' HORIZONTAL
1" = 10' VERTICAL

COASTAL COMMISSION

EXHIBIT #

8

PAGE 4 OF 4